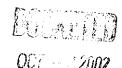


United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge			V. Darrah	Sitting Judge if Other than Assigned Judge			
CASE NUMBER		02 (C 4344	DATE	10/2	/2002	
CASE TITLE		MARILYN S. JONES vs. DEAN ANGELA STARKS					
[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the na of the motion being presented.]							
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DOCKET ENTRY:							
(1)	☐ Filed motion of [use listing in "Motion" box above.]						
(2)	☐ Brief	Brief in support of motion due					
(3)	☐ Answ	Answer brief to motion due Reply to answer brief due					
(4)	□ Rulin	Ruling/Hearing on set for at					
(5)	□ Statu	Status hearing[held/continued to] [set for/re-set for] on set for at					
(6)	☐ Pretri	Pretrial conference[held/continued to] [set for/re-set for] on set for at					
(7)	☐ Trial	Trial[set for/re-set for] on at					
(8)	☐ [Bend	[Bench/Jury trial] [Hearing] held/continued to at					
(9)		This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] ☐ FRCP4(m) ☐ Local Rule 41.1 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).					
[Other docket entry] Status hearing held and continued to 10/16/02 at 9:00 a.m. Enter Memorandum Opinion And Order. Defendants', Angela Starks and Charles Green's motion to dismiss is granted. If plaintiff fails to appear at scheduled status, case may be dismissed for want of prosecution.							
(11) [For further detail see order attached to the original minute order.]							
_	No notices required, advised in open court.					Document Number	
	No notices required. Notices mailed by judge's staff.			-	number of notices		
Notified counsel by telephone.		}		OCT 4 200%			
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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

MARILYN S. JONES,	Case No. 02 C 4344
Plaintiff,	
)	Honorable John W. Darrah
v.)	
DEAN ANGELA STARKS;	OCT 4 2002
DR. CHARLES GREEN, President; and)	*
OLIVE HARVEY COMMUNITY)	
COLLEGE,	
)	
Defendants.	

MEMORANDUM OPINION AND ORDER

Plaintiff, Marilyn S. Jones, filed a single-count complaint against Defendants, Dean Angela Starks ("Starks"), Dr. Charles Green ("Green"), and Olive Harvey Community College, alleging violation of the Americans with Disabilities Act, ("ADA"), 42 U.S.C. § 12101 *et seq.* Starks and Green have moved, pursuant to Federal Rule of Civil Procedure 12(b)(6), to dismiss the complaint. For the reasons that follow, Starks and Green's motion to dismiss is granted.

LEGAL STANDARD

When considering a motion to dismiss, well-pleaded allegations in the complaint are accepted as true. *Turner/Ozanne v. Hyman/Power*, 111 F.3d 1312, 1319 (7th Cir. 1997). Any ambiguities in the complaint are construed in favor of the plaintiff. *Kelly v. Crosfield Catalysts*, 135 F.3d 1202, 1205 (7th Cir. 1998). Dismissal is proper only when it appears beyond doubt that Plaintiff can prove no set of facts to support the allegations in his or her claim. *Strasburger v. Board of Education*, 143 F.3d 351, 359 (7th Cir. 1998).

"Although the Federal Rules of Civil Procedure do not require a plaintiff 'to set out in detail the facts upon which he bases his claim,'... he must 'set out sufficient factual matter to outline the elements of his cause of action or claim, proof of which is essential to his recovery." *Benson v. Cady*, 761 F.2d 335, 338 (7th Cir. 1985) (internal citation omitted). A complaint will not avoid dismissal if it contains "bare legal conclusions" absent facts outlining the basis of the claims. *Perkins v. Silverstein*, 939 F.2d 463, 467 (7th Cir. 1991).

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BACKGROUND

For the purposes of this motion to dismiss, the following allegations are taken as true.

From September 22, 2000 until April 4, 2001, Plaintiff was employed by Olive Harvey Community College, where Charles Green is the President and Angela Starks is the Dean. Plaintiff was one of ten part-time employees in the Counseling Department. Plaintiff held the position of Program Advisor/Program Assistant/Counselor's Aide during this time. The other part-time employees held the position of Counselor/Lecturer. All part-time staff in the Counseling Department worked on a contractual basis. In January 2001, Plaintiff's contract was renewed for the Spring semester, January through May 2001. During her employment, Defendants were aware of Plaintiff's alleged disabilities.

On April 2, 2001, Plaintiff requested to have the morning of April 4, 2001, off due to her alleged disability. Initially, Plaintiff's request was granted. However, Plaintiff was called in to work later that morning. On April 5, 2001, Plaintiff was terminated for taking off two hours due to her alleged disability. A similarly situated non-disabled employee was allowed to take off three days on three separate occasions but was not discharged.

DISCUSSION

Starks and Green move to dismiss the complaint against them, arguing that they are not "employers" within the meaning of the ADA.

The ADA defines "employer" as "a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person." 42 U.S.C. § 12111(5)(A). "[I]ndividuals who do not otherwise meet the statutory definition of 'employer' cannot be liable under the ADA." EEOC v. AIC Sec. Investigations, Ltd. ("AIC"), 55 F.3d 1276, 1282 (7th Cir. 1995). In AIC, the Seventh Circuit held that the ADA does not impose individual liability on the agents of an "employer". 55 F.3d at 1281. Therefore, Starks and Green's motion to dismiss Starks and Green is granted.

CONCLUSION

For the reasons stated herein, Defendants', Angela Starks and Charles Green's, Motion to Dismiss is granted.

IT IS SO ORDERED.

Date: October 3, 2002

John W. Darrah, Judge
United States District Court